

Crichton - Direct - Bissell

1 thing, they would negotiate with the claimant's solicitors and
2 come back to me and say this is the position, what do you
3 think?

4 Q. And you had the authority to tell them it was okay to
5 settle or not at a certain amount?

6 A. Yes.

7 Q. And that's been since 1994 or thereabouts?

8 A. Yes. I mean, there would be exceptions if there were
9 very unusual cases or something that involved a large amount
10 of money, or something that was setting a precedent, then
11 clearly I would work with my then boss, who was then called
12 Group Legal Advisor.

13 Q. And as Asbestos Claims Manager, have you monitored any
14 trials for Turner & Newall in the U. K.?

15 A. Yes.

16 Q. About how many?

17 A. It's difficult to say, we don't go to trial that often.
18 No more than 20.

19 Q. Okay. And of those 20 or 30 you monitored, how many did
20 you attend?

21 A. I would attend almost all of those.

22 Q. And why would you attend those trials?

23 A. It's important, because we go to trial so very rarely, it
24 is actually important to see how it is running. It is also
25 important because at any particular point there might be

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1 settlement negotiations. If I'm not there, then counsel
2 instructor or the solicitor has got to ring me at the office
3 and put me in the picture and ask if they can settle. If you
4 are there, you can see how the trial is turning out and you
5 can make more informed decision.

6 Q. So, I think you mentioned that T&N went to trial rarely
7 in the U. K.?

8 A. Yes.

9 Q. Why was that the company policy?

10 A. Because for the vast majority of the U. K. claims there
11 is really no defense.

12 Q. Okay. I'd like to talk a little bit about T&N's approach
13 to asbestos litigation. Now that we've discussed your history
14 at T&N, from your work at T&N over the last 20 years are you
15 familiar with the history of T&N's asbestos litigation in the
16 U. K.?

17 A. Yes.

18 Q. Through your work at T&N over the last 20 years, have you
19 become familiar with T&N's asbestos-containing products and
20 its operations that give rise to claims?

21 A. Yes.

22 Q. How?

23 A. Well, if you are investigating a claim, you need to look
24 at -- you need to look at the documents, you need to read
25 statements. You soon find out what the business was about

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1 when you are involved in litigation on a day-to-day basis.

2 Q. And you've been doing that for 20 years?

3 A. Well, I've not been doing that for 20 years, no, but I've
4 certainly been looking at it in more detail since 1994.

5 Q. What type of people in the U. K. bring claims against T&N
6 for asbestos-related diseases?

7 A. They are almost all ex-employees or employees.

8 Q. You just told us it's almost all, can you put a
9 percentage on that number or can you put a percentage on that
10 idea?

11 A. It's -- up until a point in the mid nineties, I would say
12 it was probably about at least 90 percent of the claims were
13 from employees or ex-employees, and then we began to get
14 subrogation claims, which they started to take-off, so that
15 skewed it to a certain extent. By that state it was probably
16 more like 75 percent.

17 Q. Who other than T&N employees pursue asbestos claims
18 against T&N in the U. K.?

19 A. There are a number of different elements. There are
20 those that we call household exposure claims where one of our
21 employees has taken his overalls home and say the wife or one
22 of the children has developed an asbestos-related disease from
23 shaking the overalls, or whatever. There are a number that
24 arise from environmental exposure where the people lived,
25 usually as children, in the vicinity of one of our particular

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1 factories.

2 There are a number of claims that come from people
3 who were employed to come into factories say on shutdown to do
4 painting or electrical work or the like who probably had to
5 brush down girders, and that sort of thing. There are claims
6 from maybe lorry drivers who used to come to the premises to
7 pick up goods and to distribute them. Let me see. And then
8 there are subrogation claims, but that's really claims by
9 insurance companies against T&N, not by individuals
10 themselves.

11 Q. Okay. The subrogation claims, do they arise out of
12 specific industries that used T&N products?

13 A. They arise out of specific activities of Newell's
14 employees, they arise from Newell's employees or J. W.
15 Roberts' employees, another subsidiary, who applied lagging in
16 shipyards, in power stations and railways.

17 Q. Are there any U. S. or, excuse me, are there any U. K.
18 claimants that bring products liability claims against T&N?

19 A. Yes, we do have a relatively small number of those.

20 Q. Okay. Who brings those products liability claims in
21 general?

22 A. In general, it would be perhaps someone who was employed
23 by a small builder where they've used one of the building
24 products for roofing, something of that sort where they've
25 been sawing into it.

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1 Q. Do you have any knowledge concerning the types of
2 asbestos-related diseases these claimants allege when they
3 bring a claim against Turner & Newall in the U. K.?

4 A. Do you mean the different asbestos-related diseases?

5 Q. Yes.

6 A. Yes.

7 Q. And what's your understanding of what those different
8 diseases are? Just what are the names of those diseases that
9 you see claims for?

10 A. Mesothelioma, lung cancer, asbestos-related lung cancer,
11 asbestosis, pleural thickening, pleural plaque.

12 Q. Typically how does T&N first learn about a claim against
13 it?

14 A. Typically it's a letter before action and it would be a
15 letter received from the claimant's solicitor just putting you
16 on notice.

17 Q. When T&N received, I think you called it a letter before
18 action, how would it typically react?

19 A. I would receive the letter. We have extremely good
20 employment records, so if it were in respect of an employee
21 claim, we would retrieve the employment records. At that
22 point I would write to whichever outside counsel I decided was
23 going to handle the claim on our behalf, send them a copy of
24 the letter received, together with copies of employment record
25 cards.

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1 Q. Would T&N attempt to settle the claim after receiving a
2 letter before action?

3 A. Not itself, no, it would always use outside counsel to do
4 the negotiating.

5 Q. Okay. After outside counsel was retained and an
6 investigation was done, would T&N attempt to settle claims?

7 A. Well, once the relevant information was there, yes, such
8 as medical reports, then yes, it was always a policy to try
9 and settle the claims as quickly as possible.

10 Q. I'm sorry, I didn't hear the --

11 A. It was always T&N's policy to settle claims as quickly as
12 possible.

13 Q. And why was that T&N's policy?

14 A. Well, probably because it's cheaper, really. The quicker
15 you settle a claim, the less you are paying out to both your
16 own counsel and to the claimant's counsel.

17 Q. What would T&N do if settlement negotiations broke down
18 after the letter before action, what would happen next?

19 A. Well, the claimant would probably issue proceedings. I
20 mean, it might issue proceedings anyway for a variety of
21 reasons, they might have issued proceedings because there was
22 a limitation problem or maybe the claimant was about to die,
23 so they would issue proceedings at that stage. But if they
24 couldn't come to any agreed negotiation, then they would issue
25 proceedings at that stage.

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1 Q. And how would the legal proceedings start?

2 A. It would depend on the potential value of the claim. If
3 it were under a certain amount, I'm not sure what the
4 current -- it would probably be in the county court. Over a
5 certain amount, it would be in the High Court.

6 Q. And how does one start an action in either of these
7 courts, how does a claimant start an action in either one of
8 these courts?

9 A. Well, they fill in appropriate forms and lodge them with
10 the court.

11 Q. And what happens next?

12 A. And then it would be served on T&N or more likely on the
13 actual employee subsidiary.

14 Q. In the U. K. are claimants required to provide any
15 details of their claim in the complaint against T&N?

16 A. Yes.

17 Q. What sort of details would they provide?

18 A. They would provide a full background of when they were
19 born, whether they are married, whether they've got children;
20 they would go through their occupational history, they would
21 probably go through whatever symptoms they've got and when
22 they were diagnosed, and possibly how long after they were
23 diagnosed, if there were such a -- if they had some serious
24 complaint which meant that they could no longer, say, carry
25 out the work, they would have to describe what happened then.

*United States District Court
Camden, New Jersey*

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1 Q. Would they typically include a medical report?

2 A. The medical report would now be served with the
3 particulars of claim, yes.

4 Q. Okay. You just mentioned something called a particulars
5 of claim. Could you tell us what that is, generally?

6 A. Well, that would be the document where they'd set out
7 what I've just described.

8 Q. Okay. And within the particulars of claim would there be
9 a loss schedule?

10 A. There might be, but there might not be at that stage.

11 Q. Okay. And what is a loss schedule?

12 A. A loss -- you did say a loss schedule, didn't you?

13 Q. Yes, a loss schedule. I'm sorry, I said a loss schedule,
14 I meant a loss schedule.

15 A. Yes. That would be them setting out the schedule of
16 losses, really, you know, how much they lost by way of perhaps
17 earnings or pension or how much they've expended in special
18 equipment, all those certain matters.

19 Q. And after the particulars are served and the case is
20 started, would there typically be any discovery?

21 A. Yes.

22 Q. Okay. And what type of discovery would typically go on
23 in the U. K. in these types of claims?

24 A. Well, first of all, you have to serve a list of
25 documents, which each side has to provide a list of what they

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1 believe to be relevant documents. So we would supply a list,
2 a computer generated list. And then typically they would ask
3 for, probably not all of them because it can be quite long
4 now, we're got computer generated one, they would go through
5 and ask -- actually, I've gotten less and less because they
6 were the same documents going out each time, really, so over a
7 period of time they've really got everything that they needed.

8 Q. Would there be any depositions in the U. K.?

9 A. No. No.

10 Q. Who is the finder of fact in asbestos claims that are
11 tried in the U. K.?

12 A. The judge.

13 Q. Both for issues of liability and damages?

14 A. Yes.

15 Q. In the U. K. in general what did the asbestos personal
16 injury claimants against T&N need to establish to show they're
17 entitled to compensation for their claims?

18 A. Well, they need to establish that they have got an
19 asbestos-related disease and that they were exposed to
20 asbestos dust through the action of T&N and others either as
21 an employee or through some other way, through the fault of
22 T&N.

23 Q. What would they need to show in terms of damages?

24 A. With damages, I mean, there are two elements, as Mr.
25 Hanly described, there are the general damages which reflect

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1 pain and suffering, and then there are the special damages
2 which -- well, there may not be any, but then there might be
3 quite substantial. There may be loss of earnings and all the
4 many things that are mentioned before, a loss of pension.
5 Many things.

6 Q. In practice was it difficult for a T&N employee or
7 ex-employee to show that T&N breached a duty towards it?

8 A. No.

9 Q. Why not?

10 A. Because, as I said before, the vast majority of employee
11 claims and the vast majority of our employees up to a
12 particular period were involved in some way or another in
13 either manufacturing asbestos goods or applying asbestos goods
14 and we had to clearly exposed those employees negligently.

15 Q. Okay. And what's the source, what's the theory of that
16 negligence as you understood it in the U. K.? Is there any
17 duty that T&N owed to its employees?

18 A. Well, there is and there is a nondelegable duty that an
19 employer would have to take care of its employees.

20 Q. Was there any duty to provide a reasonably safe work
21 environment?

22 A. Yes.

23 Q. And was that the theory that most of the employee claims
24 were brought under?

25 A. Yes.

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1 Q. Would plaintiff needs to show the same elements of breach
2 of duty, causation and harm to prevail in a products liability
3 claim in the U. K.?

4 A. Yes.

5 Q. Now, you mentioned general damages and special damages
6 briefly before, but I want to make sure I understood your
7 answer. For cases that went to trial in the U. K., can you
8 describe generally what types of special damages claimants
9 would seek?

10 A. Special damages they would seek would be loss of
11 earnings, which is often quite a large element. The loss of
12 services, they may no longer be able to do the gardening or
13 the decorating, that sort of thing. They may have to buy
14 special equipment. They may have to have their property
15 adapted if they can no longer go up stairs. There can be --
16 there can be many elements to a special damage claim.

17 Q. Were there any special damages if the claimant was dead?

18 A. Yes.

19 Q. What?

20 A. Yes, on top of the special damages, there's a bereavement
21 award and funeral expenses, of course.

22 Q. Could U. K. claimants recover punitive damages?

23 A. No.

24 Q. Were claimants entitled to their attorneys' fees if T&N
25 lost at trial?

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1 A. Yes.

2 Q. We talked a little bit about how these cases get tried,
3 now I'd like to talk a little bit more about how they got
4 settled. What percentage of T&N's claims were settled as
5 opposed to tried in the U. K.?

6 A. The overwhelming majority, 90, 95 percent, I would say.

7 Q. What sort of information did T&N require from claimants
8 before it would settle with them?

9 A. Well, it would require medical evidence.

10 Q. Did it require any proof of exposure?

11 A. Well, yes, but if they had been employees, I mean if I
12 look at an employment record card and I see someone has been
13 employed for us, then that's all I need to know, frankly.

14 Q. Let's talk a little bit more about exposure to make sure
15 I understand your answer. For the employees the exposure was
16 something that T&N would normally not contest because the
17 records showed it, is that --

18 A. Yes, it's -- really, there is no defense to it. They were
19 our employees, they were exposed to asbestos just in our
20 employment and they've developed an asbestos-related disease.

21 Q. Did T&N require any evidence concerning air quality at
22 its workplaces before it would settle?

23 A. Generally speaking, no. I can only actually recall once
24 when that became an issue.

25 Q. How did T&N handle exposure evidence in settlement for

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1 claims by nonemployees?

2 A. It could be more than one way. It was very often by way
3 of a witness statement, either the claimant or, if he were
4 dead or couldn't recall, a colleague of his would make a
5 statement to the effect that says he recalled working
6 alongside Joe Blokes who drove in regularly into a particular
7 factory where they loaded goods which caused a lot of dust to
8 be thrown up into the air, that sort of thing. It would
9 usually be witness statements. But also because we've got
10 quite a lot of documents, there might be times when I could
11 corroborate that from our own documents if, say, a particular
12 contractor came on the site regularly.

13 Q. So it was not a hotly contested issue?

14 A. It could be -- sometimes, sometimes it would be because
15 sometimes I think the claimant's solicitor were just flying a
16 kite because we are big, where they didn't really know perhaps
17 where their client had been exposed, but -- so they would, you
18 know, try to see if we've got any evidence to support that.
19 But on the whole, it -- they are not capable of being
20 contested.

21 Q. What about exposure in product liability claims, what
22 sort of information would T&N require before settling a
23 products liability claim?

24 A. Well, again, generally speaking, by way of witness
25 evidence where they will actually name the product. There are

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1 some quite well known products that T&N companies produced.

2 And as I said before, if it was jointer or someone like that,
3 they would sometimes remember quite clearly. If they say that
4 they were sawing through a recognized T&N product, then that
5 is sufficient.

6 Q. Under what theory would products liability claimants
7 bring claims against T&N?

8 A. Well, I think it was mainly a sort of failure of duty to
9 warn.

10 Q. What type of medical evidence did Turner & Newall require
11 for plaintiff to come forward with before it would settle with
12 the U. K. claimant?

13 A. Well, we would always receive a report from a recognized
14 consultant who specialized in asbestos diseases.

15 Q. Did the plaintiff have to provide x-rays?

16 A. Well, I think x-rays would be provided probably to the
17 consultant, they didn't provide x-rays to us. But if there
18 were any relevant x-rays, they would be referred to in the
19 consultant's report.

20 Q. What about pulmonary function test scores, were they
21 required before Turner & Newall would settle a claim?

22 A. Yes, the medical reports would always contain the results
23 of pulmonary function tests.

24 Q. I want to talk a little bit about medical evidence that
25 T&N would require before it would settle a lung cancer claim.

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1 Would T&N require a showing of underlying asbestosis before
2 paying a lung cancer claim?

3 A. Mostly, yes.

4 Q. Are there some instances in which it would not?

5 A. Well, it's always based on medical evidence. If the
6 medical evidence produced is such that it states that
7 notwithstanding the fact that there is no asbestosis there,
8 nevertheless it's believed by the consultant that lung cancer
9 is caused by the asbestos exposure, then we would probably
10 have to accept that. Generally speaking, in those cases there
11 has been sufficient exposure to have caused asbestosis even if
12 the claimant has not actually developed it.

13 Q. How did T&N determine how much to pay in settlement for
14 these different diseases?

15 A. Well, there are guidelines and ranges within -- that are
16 recognized within -- the general damages element, obviously,
17 reflects pain and suffering. So the longer the period and the
18 longer the pain and suffering, the larger amount those general
19 damages are going to be. If it's through a plaque case where
20 there is a question mark as to whether there is any damage at
21 all, then it's going to be a relatively small amount.

22 Q. You mentioned some guidelines, what's the source of those
23 guidelines?

24 A. They are the JSB guidelines, general -- I don't remember
25 what it stands for now, but it's -- they are guidelines that

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1 are testified to in court and they're reviewed periodically by
2 courts. And it's to give brackets, it's not to give
3 absolutes, it's to give brackets within which general damages
4 should be settled at.

5 Q. Okay. And you use those guidelines?

6 A. Judicial Studies Guidelines. Judicial Studies Boards.

7 Q. And you used those Judicial Study Board guidelines in
8 doing your work; is that correct?

9 A. I wouldn't, I wouldn't do it myself, the lawyers that I'd
10 instructed would do. But it's not just those, it's precedent
11 as well and probably more, actually. They would look at
12 similar cases with a similar length of pain and suffering,
13 similar age group, that sort of thing, to determine what was
14 the relevant amount.

15 Q. Now, I think you mentioned earlier that T&N did not take
16 many cases to trial and that it was more costly. How did T&N
17 do at trial, at the trials you attended?

18 A. How did we -- how did we -- sorry?

19 Q. How did Turner & Newall do at trial?

20 A. Not very well.

21 Q. How did the awards tend to come out compared to
22 settlement values?

23 A. They were always higher than negotiated settlements.

24 Q. How did the experiences that Turner & Newall had at trial
25 affect its decisions about settlement?

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1 A. Well, it obviously made Turner reluctant to go to trial
2 unless absolutely necessary because you ended up paying more
3 in costs and more by way of damages and setting yet another
4 precedent.

5 Q. Has T&N settled products liability claims?

6 A. Not very many, a handful.

7 Q. Who was -- since you've been the asbestos claims
8 administrator, who's been the primary asbestos personal injury
9 defendant in the U. K.?

10 A. Well, probably the T&N subsidiary Newell's Insulation
11 Company.

12 Q. Does Newell's, being the primary defendant, have any
13 effect on T&N's ability to defend its asbestos liabilities in
14 the U. K.?

15 A. I think just the knowledge T&N was such a big player over
16 such a long period of time just makes any of the T&N
17 subsidiaries -- just make T&N vulnerable really. We cannot
18 get away from the fact that we were going since 1920. And I
19 have been involved in a lot of asbestos litigation, we cannot
20 claim that we didn't know as perhaps some of the smaller
21 defendants might be able to do.

22 Q. Has T&N sought to reduce its liability by pursuing claims
23 of contribution against other defendants?

24 A. To the extent that you can. I mean, sometimes a claimant
25 will only choose to go, as I said, against one defendant.

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1 It's one of the things you look at, actually, when the claim
2 comes in and the employment list goes out, because quite often
3 it will list the companies they worked for. In those
4 circumstances we had kind of a quid pro quo arrangements
5 whereby we will request a voluntary contribution as we have
6 been requested ourselves in the past.

7 Q. Based on your experience, have you noticed any trends in
8 asbestos personal injury claims filed against T&N in the two
9 years preceding the commencement of insolvency proceedings in
10 2001?

11 A. Only to the extent that they were increasing and that the
12 proportions were changing in respect to the kind of claims.

13 As I said, a number of subrogation claims were coming through.

14 MR. BISSELL: Could I have just a minute, your Honor,
15 to confer with my colleagues? I think I'm very close to being
16 done.

17 THE COURT: Yes.

18 BY MR. BISSELL:

19 Q. Going to what we were discussing near the end about how
20 T&N shared liabilities with other asbestos defendants, can you
21 describe how liability was allocated between T&N and other
22 defendants when a claimant was exposed to asbestos from more
23 than one source?

24 A. It was almost always on a time exposed basis.

25 Q. And could you just, for those who may not be as familiar

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1 with the time exposed basis idea, can you explain to us how
2 that works?

3 A. Well, as a simple example, if an employee worked for us
4 for five years and worked for someone else for five years and
5 someone else for ten years, then our share would be 25 percent
6 and the others would be 25 and 50 percent respectively.

7 Q. Okay. Now, moving back to, I think we were talking about
8 medical evidence earlier, was there any particular pulmonary
9 test score that T&N would require before it paid on a
10 non-malignant claim?

11 A. No.

12 Q. So is it fair to say that T&N would pay an asbestos claim
13 if the consulting doctor rendered a diagnosis of asbestosis
14 even if the plaintiff did not have any particular decline on a
15 PFT test?

16 A. Yes. But clearly they would get considerably less than
17 if they were a high disability. And in the U. K. we have a
18 system whereby claimants can opt to take provisional damages.
19 So they will take -- if you got a lesser disease, they would
20 take provisional damages now with the option to come back for
21 further damages if they're condition progresses or if they
22 develop another asbestos-related disease, a serious one.

23 MR. BISSELL: Thank you very much.

24 THE COURT: Mr. Strochak.

25 (CROSS-EXAMINATION OF ANDREA CRICHTON BY MR. STROCHAK:)

Crichton - Cross - Storchak

1 Q. Good afternoon, Ms. Crichton. My name is Adam Storchak.
2 I know we met a few months ago in New York when you were kind
3 enough to come over for an interview. I take it you recall
4 that meeting?

5 A. I do.

6 Q. Let me start, if I could, with the database project that
7 you mentioned in your direct testimony. I believe you said
8 that you worked on a database, an imaging project?

9 A. Yes.

10 Q. To create a repository of T&N corporate documents, is
11 that correct?

12 A. Yeah, the documents were already there. It was to
13 facilitate the supply of a list of documents. If the
14 litigation progresses in the U. K., a list of documents will
15 have to be supplied. It was to facilitate the supplying of
16 the list of documents and copies of the documents themselves
17 rather than endlessly going back to originals. And some of
18 them are very, very flimsy, those original documents, too. If
19 you keep going back and unstapling them to make photocopies,
20 it's not, obviously, very good.

21 Q. You were able to create electronic repositories of those
22 documents?

23 A. Yes, but not every one. We were looking specifically for
24 documents that were relevant to U. K. asbestos litigation.

25 Q. I see. So the documents that were relevant to U. K.

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1 asbestos litigation were different than those that might have
2 been relevant to U.S. litigation?

3 A. No, for the most part they would -- obviously, they would
4 be very similar but there might be some specific issues that
5 were just to do with the U. K..

6 Q. Now, you said you hired a U.S. company to do the work on
7 that project, is that right?

8 A. Yes.

9 Q. And that was, did I get the name right, Heathson?

10 A. No, Peterson.

11 Q. I take it no relation to Dr. Peterson who is the
12 testifying expert for the ACC in this case?

13 A. I don't think so.

14 Q. Now, what year was that project undertaken, if you
15 recall?

16 A. I started -- I think it was December '93 when we actually
17 started the project. It was quite a big project to do and
18 then Peterson came over. I had a lot of temps there because
19 it meant really for every file we had, we had to take all the
20 staples out of each and every document in the file, then they
21 got to be marked up in such a way you knew it was part of a
22 bunch of documents, then every single page had a bar code, a
23 separate bar code on the bottom, so it was quite labor
24 intensive. And when it had gone through that period, it went
25 to be microfilmed, every page went to be microfilmed. And

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1 then the microfilms were shipped back to Milwaukee where they
2 were -- not everything was imaged, but a lot of it was imaged,
3 and a small amount of documents were OCR, the optical
4 character recognition. And then over in Milwaukee there were
5 a team of people there creating a database, we identified,
6 apart from the usual things like author, book organization,
7 recipient, that sort of thing, date, title, we identified a
8 number of key words that could be picked out by the people
9 over there.

10 Q. Okay. Now, these documents that were put into this
11 electronic repository and imaged and OCR'd, were they the same
12 documents that were made available to Chase Manhattan in the
13 property damage litigation?

14 A. Many of them would be, yes.

15 Q. Are the documents still in Milwaukee, is there a set
16 still there?

17 A. No. I think they probably still got a set of the
18 microfilm but not the documents.

19 Q. I see. Now, over the years, I recognize that the Chase
20 property damage litigation is a separate matter, but over the
21 years did asbestos personal injury lawyers representing U.S.
22 claimants make arrangements to review these documents?

23 A. Sorry, to review the Chase documents .

24 Q. No. I'm sorry, I wasn't clear. To review the documents
25 that you put into the separate electronic repository that we

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1 were discussing, the one that went to Milwaukee.

2 A. No, not really. No. I mean, the occasional plaintiff's
3 lawyer came over to review the documents in the repository
4 itself but not my database of documents, no.

5 Q. So that was not made available to plaintiffs' lawyers in
6 the United States?

7 A. Well, I'm not -- I'm not sure what good it would have
8 done them in a sense, it was you needed to know how to bring
9 up the images, it was quite a complicated way of doing it, and
10 I'm not sure it would be the way that they would do discovery,
11 anyway. They seemed, to my small knowledge of it, they seemed
12 to come and go through the list of the files and to pick out
13 for themselves what they wanted to see.

14 Q. And they did, in fact, do that periodically?

15 A. Periodically, yes.

16 Q. You mentioned in your direct testimony the different
17 types of diseases that you see in the U. K. claims. And if my
18 memory serves correct, you mentioned mesothelioma, right?

19 A. Yes.

20 Q. And lung cancer claims?

21 A. Yes.

22 Q. And non-malignant disease claims, asbestosis and pleural
23 disease, correct?

24 A. Yes.

25 Q. I didn't hear you mention, and perhaps I just missed it,

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1 but I didn't hear you mention other types of cancers.

2 A. No.

3 Q. Is that a type of claim you typically do not see much of
4 in the U. K.?

5 A. No, we don't. I can only ever recall one claim, an
6 esophageal claim, I can just recall that one.

7 Q. Just one in all of T&N's history?

8 A. Yes -- well, no, not T&N's history, in the time that I
9 have been managing.

10 Q. I see. So that would have been about since -- well,
11 since what year? I'm sorry.

12 A. Yes, but I think probably since the time that, the late
13 '80's, I think, I would have known about it then because I was
14 keeping records to do with disease at that stage.

15 Q. Now, you indicated that for the vast majority of the U.
16 K. claims, T&N really has no defense to many of those claims.
17 About what percentage of claims are resolved with no payment
18 in the U. K., if you have a sense?

19 A. You mean that we take to trial and don't pay or just we
20 just don't for whatever reason -- a number of them just go
21 away. A number of them are abandoned. You know, we might
22 start a case and the claimant just goes away. There are --
23 there have been a few -- there are a few instances where we
24 have been released by codefendants mainly because our share
25 would prove to be so small, you know, less than 1 percent or

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1 something, it's really not worth it.

2 Q. I see. Now, when you say that for many of the claims

3 there was no defense, were you referring to what you called EL

4 claims, employer's liability claims?

5 A. Yes.

6 Q. And the reason for that is there's a fairly well

7 established record of the presence of asbestos in mills and

8 other factories where Turner & Newall and subsidiaries

9 actually made asbestos, its asbestos products, right?

10 A. That's right.

11 Q. Now, is that comparable in the United States?

12 MR. FINCH: Objection. Lack of foundation.

13 THE WITNESS: I'm not sure I even understand your

14 question.

15 THE COURT: She doesn't understand the question.

16 MR. STROCHAK: I will be happy to rephrase, your

17 Honor.

18 BY MR. STROCHAK:

19 Q. You have had some experience with U. K. claims in your

20 history with the company, is that correct?

21 A. Well, mainly in an administrative role.

22 Q. You have some general understanding of the types of legal

23 theories that U.S. claimants pursue?

24 A. I wouldn't like to write about it. I probably would have

25 heard the odd thing over the years, but I'm certainly not the

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